FIXTURES—MORTGAGE—DESTRUCTION OF PROPERTY.—The plaintiff was a mortgagee of land including a sugar house with the necessary machinery and appliances. Defendant was an execution creditor of the mortgagor and seized the machinery on a fi. fa. after the destruction of the sugar house by fire, leaving the machinery in a "ruined condition, but containing much valuable metal." Plaintiff seeks to restrain the sale, claiming the property to be still covered by the mortgage. *Held,* it was severed by the fire and could be sold by the defendant. *Folse* v. *Triche* (1905), — La. —, 37 So. Rep. 875.

The property in question was conceded to have been immovable by destination under the civil law. That it would have been a fixture by adaptation in other states, see *Bond* v. *Coke,* 71 N. Car. 97; *Vorhis* v. *Freeman,* 2 W. & S. 116; *Reyman* v. *Henderson,* 98 Ky. 748; *Fairio* v. *Walker,* 1 Bailey 540; *Firth* v. *Loan & Trust Co.,* 122 Fed. 569. But in the majority of states greater weight is given to the intention of the parties and mode of annexation. 13 AM. & ENG. ENC. LAW (2nd. Ed.) 608. In *Otis* v. *May,* 30 Ill. App. 581; *Wilmarth* v. *Bancroft,* 10 Allen 348; *Goddard* v. *Bolster,* 6 Greenl. 427; *Rogers* v. *Gilinger,* 30 Pa. St. 185, and *Patton* v. *Moore,* 16 W. Va. 428, it was held that severance by act of God did not release property from the operation of a mortgage, because not done with the mortgagee's consent. In *Wadleigh* v. *Janvris,* 41 N. H. 503; *Hitchins* v. *Warner,* 5 Barb. 666, and *Hamlin* v. *Parsons,* 12 Minn. 108, fixtures severed by the mortgagor without the mortgagee's consent were held to be still a part of the realty. While in *Pope* v. *Garrard,* 39 Ga. 471, *Buckout* v. *Swift,* 27 Calo. 433, and *Gardner* v. *Finley,* 19 Barb. 317, it was held that severance by accident or act of God did change the fixture from realty to personalty. That a mortgage no longer covers buildings or machinery that have been removed by the mortgagor without the mortgagee's consent, see *Harris* v. *Bannon,* 78 Ky. 568; *Verner* v. *Betz,* 46 N. J. Eq. 256; *Davis* v. *Goodnow,* 80 Mo. 271; *Padgett* v. *Cleveland,* 33 S. Car. 339; *Insurance Co.* v. *Cronk,* 93 Mich. 49. The difference between the equitable and legal theory of mortgages has perhaps contributed to this lack of harmony among the decisions. It would seem, however, that in either case if removal would impair the security, the mortgagee should be entitled to injunction to prevent removal. *Brady* v. *Waldron,* 2 Johns. Ch. 148; *Emmons* v. *Hinderer,* 9 C. E. Gr. 39; *Verner* v. *Betz,* 46 N. J. Eq. 256.

FOREIGN CORPORATIONS—SERVICE OF SUMMONS ON OFFICER OF.—Relator applied for a writ of mandamus to compel the judge of the Second Judicial District Court of New Mexico to take cognizance of an action for damages against the Sante Fe Railroad Company and others. The company was the owner of several hundred thousand acres of land within that district, and at the commencement of the action for damages, was prosecuting in one of the counties of the district, suits involving the company's title and possession of parts of those lands. The company was organized under an Act of Congress and none of its officers were located in the territory. When served with summons, Ripley, the president of the company, was only a passenger on a railroad train passing through the territory. The defendant quashed the return of the above summons and refused to assume jurisdiction of the action. *Held,* that the service of summons upon Ripley, as president, was insufficient